

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EDGAR FRANCIS BRADLEY, :
: :
Petitioner(s), : Case Number: 1:05cv744
vs. : :
: District Judge Susan J. Dlott
THOMAS BARBEAU, : :
: :
Respondent(s). : :
:

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Timothy S. Black filed on March 17, 2006 (Doc. 5), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired April 6, 2006, hereby ADOPTS said Report and Recommendations.

Accordingly, Petitioner's petition for writ of habeas corpus apparently filed pursuant to 28 U.S.C. § 2241 (Doc. 1) is *sua sponte* DISMISSED without prejudice to refiling with the United States Court of Appeals for the Sixth Circuit as a recharacterized, successive motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

A certificate of appealability should not issue, because for the foregoing reasons, petitioner has failed to make a substantial showing of the denial of a constitutional right that is remediable in this habeas corpus proceeding. *See* 28 U.S.C. § 2253 (c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that an appeal of any Order adopting this Report and Recommendations would not be taken in "good faith" and therefore DENIES

petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

This case is hereby TERMINATED off the docket.

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge